

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

IRVING H. PICARD, Trustee for the  
Liquidation of Bernard L. Madoff  
Investment Securities, LLC

Plaintiff,

v.

MITCHELL ROSS, in his capacity as personal  
representative and primary beneficiary of the  
estate of Leon Ross and in his capacity as  
personal representative and primary  
beneficiary of the estate of Miriam Ross,

Defendant.

IRVING H. PICARD, Trustee for the  
Liquidation of Bernard L. Madoff  
Investment Securities, LLC

Plaintiff,

v.

LEON ROSS, individually and in his capacity  
as representative of the estate of Miriam Ross,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 10-04723 (SMB)

Adv. Pro. No. 10-05020 (SMB)

**STIPULATION AND ORDER  
DISMISSING ADVERSARY PROCEEDINGS WITHOUT PREJUDICE**

WHEREAS, on December 1, 2010, Irving H. Picard, as trustee (“Trustee”) for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.* and the substantively consolidated estate of Bernard L. Madoff, commenced Adversary Proceeding No. 10-04723 (the “First Adversary Proceeding”) against Leon Ross in the United States Bankruptcy Court for the Southern District of New York; and

WHEREAS, on December 2, 2010, the Trustee commenced Adversary Proceeding No. 10-05020 (the “Second Adversary Proceeding,” and together with the First Adversary Proceeding, the “Adversary Proceedings”) against Miriam Ross; and

WHEREAS, Miriam Ross died during the pendency of the Adversary Proceedings; and

WHEREAS, on October 15, 2011, the Trustee amended the Complaint in the Second Adversary Proceeding to substitute Leon Ross, in his capacity as the personal representative of the estate of Miriam Ross, in place of Miriam Ross, deceased; and

WHEREAS, Leon Ross subsequently died during the pendency of the Adversary Proceedings; and

WHEREAS, on August 22, 2014, the Trustee filed a Stipulation for Substitution of Defendant and Consolidation of Adversary Proceedings, (1) substituting Mitchell Ross, in his capacity as the personal representative and primary beneficiary of the estate of Leon Ross and in his capacity as the personal representative and primary beneficiary of the estate of Miriam Ross (“Defendant”) into the First Adversary Proceeding and Second Adversary Proceeding in place of Leon Ross, deceased, and (2) consolidating the Second Adversary Proceeding into the First Adversary Proceeding; and

WHEREAS, Defendant submitted to the Trustee a hardship application (the “Hardship Application”) requesting that the Trustee agree to dismiss the First Adversary Proceeding. In support of the Hardship Application, Defendant submitted to the Trustee financial statements and other information, all under penalty of perjury; and

WHEREAS, in reliance on the representations made by Defendant in the Hardship Application and other representations and/or materials submitted by Defendant in support of the Hardship Application and during mediation of the First Adversary Proceeding on June 14, 2016, the Trustee in the exercise of his due and deliberate discretion has determined to dismiss the Defendant from the Adversary Proceeding;

IT IS HEREBY agreed and stipulated between the Trustee and Defendant as follows:

1. Defendant hereby affirms (i) that all representations made by Defendant and all materials provided by Defendant have been submitted by Defendant as true and correct under penalty of perjury and (ii) that the Trustee has relied upon these materials in exercising his discretion to dismiss the First Adversary Proceeding.

2. Defendant hereby agrees that to the extent it is subsequently determined that Defendant deliberately or intentionally submitted materially false and/or misleading representations, statements and/or materials in connection with the Hardship Application, the Defendant hereby agrees (i) that the Trustee shall have the right to reinstitute the First Adversary Proceeding against Defendant, into which the Second Adversary Proceeding has been consolidated, and/or pursue other remedies available to him and (ii) that Defendant agrees that this Stipulation and Order shall act to toll any applicable statutes of limitation with respect to the Trustee’s commencement of any such claims and notwithstanding section 546(a) of the

Bankruptcy Code, Defendant hereby agrees to waive any statute of limitations defense in any such actions or claims commenced by Trustee.

3. Pursuant to Fed. R. Civ. P. 41(a), made applicable by Fed. R. Bankr. P. 7041(a), the Trustee and Defendant hereby agree that upon approval of this Stipulation and Order by the Bankruptcy Court, except as set forth in paragraph 2 hereof, the Trustee's claims against Defendant are dismissed without prejudice, and Adversary Proceeding No. 10-05020 and Adversary Proceeding No. 10-04723 are dismissed without prejudice.

4. This Agreement may be signed by the parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this stipulation shall be deemed an original.

5. This Stipulation and Order is subject to the approval of the Bankruptcy Court, failing which the provisions of the Stipulation and Order shall be void and of no effect.

Date: July 14, 2016

IRVING H. PICARD, TRUSTEE FOR THE  
SIPA LIQUIDATION OF BERNARD L.  
MADOFF INVESTMENT SECURITIES LLC

By: /s/ Nicholas J. Cremona

David J. Sheehan  
Nicholas J. Cremona  
BAKER & HOSTETLER LLP  
45 Rockefeller Plaza  
New York, New York  
Telephone: (212) 589-4200  
Fax: (212) 589-4201

*Attorneys for Plaintiff Irving H. Picard,  
Trustee for the Substantively Consolidated  
SIPA Liquidation of Bernard L. Madoff  
Investment Securities LLC and the Estate of  
Bernard L. Madoff*

/s/ Mitchell Ross

Mitchell Ross, in his capacity as personal representative and primary beneficiary of the estate of Leon Ross and in his capacity as personal representative and primary beneficiary of the estate of Miriam Ross

By: /s/ Matthew A. Kupillas

Matthew A. Kupillas  
MILBERG LLP  
One Pennsylvania Plaza  
New York, NY 10119  
Telephone: (212) 594-5300  
Facsimile: (212) 868-1229  
Matthew Gluck  
Email: mgluck@milberg.com  
Matthew A. Kupillas  
Email: mkupillas@milberg.com  
Joshua E. Keller  
Email: jkeller@milberg.com

*Attorneys for Defendant Mitchell Ross*

**SO ORDERED:**

By: /S/ Stuart M. Bernstein

**HON. STUART M. BERNSTEIN**  
**UNITED STATES BANKRUPTCY JUDGE**

Date: July 15, 2016